IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

V. Case No. 4:15-cr-00483

JAMES BURKE,

DEFENDANT

DEFENDANT JAMES BURKE'S
MOTION TO SUPPRESS WRITTEN AND ORAL STATEMENTS

TO THE HONORABLE ALFRED H. BENNETT:

The Defendant in the above styled and numbered cause, James Burke, under the Fifth and Sixth Amendments to the United States Constitution, respectfully moves the Court for an order suppressing written and oral statements made by the Defendant while in government custody. In support of this motion, James Burke would show the Court as follows:

I.

The Defendant was arrested by government authorities at McAllen, Texas on 08/14/2015 and remained in government custody.

The Defendant appeared before a magistrate at Houston on 09/17/2015 and was appointed counsel.

The Defendant has been charged with Accessing Child Pornography.

During the time the Defendant was in government custody and control, agents of the government obtained written and oral statements from the Defendant by coercion and improper influence.

During the time the Defendant was in government custody and control, agents of the government obtained written and oral statements from the Defendant in violation of the Defendant's right to counsel.

During the time the Defendant was in government custody and control, agents of the government obtained written and oral statements from the Defendant in violation of the Defendant's right to remain silent.

During the time the Defendant was in government custody and control, agents of the government obtained written and oral statements from the Defendant as a result of an unlawful detention in which the Defendant was not advised of his rights and during which the Defendant did not waive his rights.

II.

A hearing on this motion is respectfully requested.

III.

Counsel for the Defendant conferred with Assistant United States Attorney Kim Leo about this motion on 12/04/2015. The government is opposed to this motion. The Government is wholly opposed to this Motion and takes exception to all assertions made herein

James Burke prays that the Court enter an order setting suppressing any statements made by the Defendant while in government custody.

Respectfully Submitted,

/s/ Mark Diaz
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Attorney for the Defendant,
James Burke

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the Defendant James Burke's Motion to Suppress Written and Oral Statements was hand delivered to Kim Leo, Assistant United States Attorney on the 4th day of December, 2015.

/s/ Mark Diaz
Mark Diaz